

MEMBERS PRESENT: Chairman Dini
Vice Chairman Schofield
Mr. Craddock
Mr. DuBois
Mr. Jeffrey
Mr. May
Mr. Mello
Mr. Nicholas
Mr. Polish
Mr. Prengaman
Mr. Redelsperger

MEMBERS ABSENT: None

GUESTS PRESENT: Mr. Mike Cool
Mr. Bob Gagnier
Mr. John Capone
Mr. Joe Crowley
Mr. Al Wittenberg
Mr. Dan Hussey
Mr. Vernon Bennett
Mr. Ross Culbertson

Chairman Dini called the meeting to order at 8:10 A.M.

Mr. Dini stated that the first bill to be considered would be AB 484.

Mr. Mike Cool, representing the City of Las Vegas, testified first. He stated that the bill is a city-sponsored bill with the intention of amending the current statute affecting the procedure for reconveyance of donated dedicated land. I would like to relate to you an example of a current problem that we have as an example of what this bill could help us do. About a year and a half ago, we had a particular parcel of land that was a half acre to be precise. That was donated to the City of Las Vegas. This particular parcel of land was one-half acre. That parcel was dedicated in the donation as a park but being it was only a half-acre and because of where it was located the city planning department advised that it was probably too small for serving the needs of the expanding community. For those of you who are familiar with this particular parcel of land it was out in the Rancho Road, Cheyenne Avenue area of Las Vegas.

The original donor of the land, Ellsnor Estates, did not wish to have the parcel back so the City has been maintaining the property for the last 18 months. During this period of time, we have received numerous requests for purchase of that half acre of land. The current statute as it reads at this time pertaining to the reconveyance of the land, does not specify the exact procedures as to

what the City is to do to reconvey and sell the land. In addition that current statute requires that the cities petition electors and receive signatures of at least 51% of the number of those electors casting votes for congressional representative in the last preceding general election in order to reconvey donated, dedicated land. In this particular case that I just related to you, the estimated sale price of that half acre would have netted approximately \$20,000 to the City of Las Vegas, but it was also estimated that the cost to print, advertise and solicit the petition would have exceeded the sale proceeds by approximately \$6,000.00.

What is proposed in AB 484 is to bring current NRS 268.050 in line with an existing statute. This particular statute pertains to the county's reconveyance of donated, dedicated land and it currently allows for reconveyance of donated, dedicated land by the resolution of the governing board if they determine that the ownership is unnecessarily burdensome or that such reconveyance would be advantageous to the citizens of the county. That particular statute is NRS 244.290 and does pertain to the county reconveyance of donated, dedicated land.

In addition, in AB 484, the City is proposing to go a step further than the existing statute by recommending the use of our current planning commission procedure for public hearings and the posting of any reconveyance proposals that we may have. On the bill you will see that in Section 1, Paragraph 2, Page 2, beginning on line 18.

We would like to also suggest one additional amendment to AB 484. That particular amendment would be an inclusion of like language to section 4 of the reconveyance procedures for the county and that is specifying procedures for reconveyance when the donor of the property refuses to accept the return of the donated property or is unable to accept the return. In the particular example that I related to you the donator of that particular piece of property Ellsnor Estates, did not wish to have that particular parcel of property back. By including this particular amendment, we would be allowed then to go to public bid and either trade, exchange or sell that piece of property in case the donor did not want the property back or was unable in the case of death to receive the property back.

Mr. Cool's proposed amendment to AB 484 is attached to the minutes of this meeting as EXHIBIT A.

Mr. Dini questioned Mr. Cool if this was an amendment of Section 4 or if it was a new Section 4.

Mr. Cool stated that this would be a new Section 4 to AB 484. He further stated that when he says Section 4, I want to clarify one thing. It would be a new Section 3 to AB 484. It is currently written in law as Section 4 to NRS 244.090. We are taking the exact language.

1611

Mr. Dini asked if they wanted to delete the existing Section 4.

Mr. Cool stated that they wanted to leave the existing 4 in NRS 244 the same as it is in 244, but we want to add those same words to NRS 268.05.

Mr. Dini asked where they wanted to put it.

Mr. Cool stated that they wanted to put it in Section 2 following paragraph 4, so it would be the new paragraph 5.

Mr. Cool stated that they would be inserting it after the words "Seal of the City" on line 41.

Mr. Cool stated that the last comments he would have, in consolidating the city and county reconveyance procedures, we feel that we can eliminate the few cases that we have where the land would be burdensome for the City to maintain but more particularly we feel that in a case where a piece is donated and given to the City and it would be more advantageous to trade that piece of land or to sell that piece of land and take the proceeds and put it into another piece of land; as an example the park that I related, that this could be more advantageous to the citizens.

The last section of the bill on page 2 of line 42 is a repealer. In discussing this with the bill drafter we were asking for a request to repeal 268.060 which is a duplication of the vacation and abandonment procedures which are also covered in NRS 278.48. That is simply a repealer of some duplicative language according to the bill drafter.

Mr. Cool stated that he would be happy to answer any questions that he could on this request.

Mr. Prengaman stated that this appeared to him to have a fairly broad application. Basically as I read this and unless I don't understand the definition of reconveyance the governing body could sell virtually anything they have right now. Mr. Prengaman stated that it says any land donated and dedicated for public parks, public square, etc. or land held in trust or any other public use or uses or any part thereof.

Mr. Cool stated that he thought that the particular problem that when a piece of property or parcel is given or donated to us and it is dedicated for one of these purposes, we are unable to reconvey it or use it for any other purpose if in fact it is dedicated for that. We would like the ability to change it, or trade it or sell it in a simplified procedure. Quite honestly we don't have that many parcels of land. There are only two right now in the City of Las Vegas. It is not a massive problem to the extent that there are a number of parcels sitting out there. The particular problem, even though it may be minor is the fact that we do own it and it has been dedicated and if we cannot use it for that dedicated purpose, then we are sitting with the land having to

maintain the land, unable to sell it. If the previous property owner does not take it back we are stuck with it quite frankly until we convey it and as I related earlier, the reconveyance procedure with the petition signatures required are expensive for us. So we don't even attempt to get the petition, we just maintain the land. The maintenance is not all that substantial in the fact that it would probably go to clear weeds. You are not talking about a large amount of money, but quite frankly there is a problem when we do own it. It becomes an eyesore and we hear the complaints.

Mr. Redelsperger stated that he was not quite clear. What is the procedure where somebody can donate a piece of land and the city not really want it. Why would they accept the land in the first place.

Mr. Cool stated that he thought that the land in one case was actually left to us in an estate. We had no recourse in even dealing with the estate other than an outside attorney. Whether or not we had a choice in wanting the land, in other words, it is donated to us in a will.

Mr. Cool further stated that in the case that he related to the committee earlier, it was not only donated by the subdivision or the owner of the subdivision, but it was also specified in the donation that it was to be dedicated to the park. As the provisions of the current statute read, we would have to go through a reconveyance procedure for signatures.

Mr. Redelsperger asked what happened to the planning commission at the time. How can they accept it.

Mr. Cool stated that he was not positive about it, but he did not even know if it went to the planning commission. In other words, I think we received the parcel of land, it was dedicated as a park. Our planning department looked at the parcel of land and said that it was not feasible. Quite frankly in that area, Angel Park is the next area that we plan on putting in a large public recreation area. One half acre of land was not feasible that close or in that general vicinity. We felt that possibly you are selling that piece of land to the people that requested to own it but you could dedicate the money to the proceeds to go into the park that was in that vicinity that was being planned or exchange it for a piece of property that may be abutted up to the park if that were possible in this case. I don't know if it was.

I don't know whether I have necessarily answered your question but what I am telling you is we got stuck with a piece of property that we could do nothing with.

Mr. Redelsperger stated that he understood that the developments have to be approved.

Mr. Cool stated that that is true. Originally they do.

Mr. Cool stated that on the front end of this development he was not sure whether or not the city wanted to take over this particular parcel of land. Whether or not they did develop that particular half acre and then in fact turn around and give it to us yes, it could be that our planning department did not catch that up front. Mr. Cool stated that they ended up with a half acre that maybe they should have caught in the front but that they were stuck with it and they would like to sell it or trade it.

Mr. May stated that on the front of the bill if the person who donated the land is deceased you can then sell it but on page 1 lines 12 and 13, it reverts back to the person from whom the land was acquired or his heirs, assignees, successors. Mr. May questioned if the language should not be the same where it says deceased in the bill.

Mr. Cool stated that that was a good point. I think I need to ask the bill drafters on that one whether or not that needs to be in there for the deceased or the estate. We had this language copied word for word and I quoted the one that reflects the county statute and I did not catch that one.

Mr. Cool stated that the suggested amendment would be subparagraph (b) to see whether or not the heirs of the estate need to be added in there.

Mr. Dini asked if anyone else wished to testify on AB 484.

Testimony on AB 484 was concluded.

Mr. Dini stated that the next bill to be heard would be AB 477.

Mr. Bob Gagnier, Executive Director of the State of Nevada Employees Association testified. He stated that he was here to testify in favor of AB 477 and he would like to make a few remarks to preface that. First of all a bill almost identical to this passed the Assembly two years ago and second this bill is intended to do two things and two things only and if there are any other changes in here, they are bill drafter changes and not our intent when we asked that the bill be drafted. The first thing that the bill does is to remove the personnel division from the Department of Administration and make it a separate department of State Government. The second thing it does is to take all of the various personnel officers and personnel analysts that are currently in the operating agencies around the state and transfer them to this new personnel department.

I would like to address the concept part of it first because it is different from what we had presented to you in the past. The concept is that at the present time we have unequal application of the rules based upon the interpretation of different personnel officers

1614

in different agencies. We feel if they all worked for a central agency we would have a uniform application. We view this much the same as the deputy AGs, where they work for the attorney general but they are assigned to the operating agencies. We view an exactly similar situation. However, this morning I would like to suggest a change in the bill on the very last page and this is being done at the request of some personnel officers who had talked to me about it and do object to this. Section 82. It has been suggested that the new state department of personnel if it were created have a two year lead time before they exercise this portion of the bill and for that reason we would suggest an amendment of Section 82 to make that effective 1983. If this new department were created, they could get in operation and become a good functioning department prior to the transfer of the personnel officers.

As to the philosophy of why we are asking for a separate department of personnel, first of all I think we have to say that we do not believe the personnel division should be part of the department of administration alongside the budget division. That was recognized by the management task force and you now have a bill that I believe was introduced yesterday assigned to this committee to move them out of the department of administration and into the Department of General Services. We don't think that is appropriate either but at least we are happy that someone has recognized the fact that they don't belong in the Department of Administration. We do think they have more status than the state motor pool.

The personnel division is theoretically in charge of expending \$150,000,000 a year in state salaries and we think that they deserve cabinet level status and a full director appointed by the governor and that is really the entire function of this bill. It may be lengthy but it doesn't do anything more than that; to give that function the proper respect and the proper status that it deserves within the state and to give it department level status. When you have a hearing on the task force recommendation we will say the same thing. We think it deserves more status than the state motor pool or the state division of buildings and grounds or the risk management division as it is now which is in effect a co-equal. Anybody or any group of people that are in charge of that kind of an expenditure deserve cabinet level status.

Mr. Dini asked if Mr. Gagnier would go through Section 7 with the committee.

Mr. Gagnier stated that Section 7 is the new portion added since last session that would assign the personnel officers of the various agencies to this department and we do have a slight problem with one phrase that the bill drafter put in there on line 12 it says to any agency on a half-time or full time basis. We don't know why they put in half-time. It should be part time. They might be less than half-time because it might be a very small agency. That is by the way one of the reasons why we feel this is necessary. We have many state agencies operating right now

operating without professional personnel officers because they are too small. We have one rather large agency that is losing their personnel officer this year due to budget cuts. The rest of this is the bill drafter's language to attempt to charge back in the same manner that they currently charge for deputy AGs.

Mr. Dini stated that this was the whole meat of the bill.

Mr. Gagnier stated that it was an important portion of it.

Mr. Nicholas asked if Mr. Gagnier could give us any kind of a historical background in terms of other states insofar as whether or not this is a normal thing. Do you have any statistics?

Mr. Gagnier stated that he would have to just guess on that. I can give you roughly in the west - you have California and Washington both with not only separate departments of personnel but totally independent departments of personnel where they operate under a personnel board which is appointed by the governor but they in turn appoint the director of personnel. I would suppose similar to our state superintendent of public instruction. In Oregon it is a part of the executive branch but they have made some very sweeping changes in the Oregon personnel system in the last few years to the point where the vast majority of what they do is now done by collective bargaining. There is no personnel division or personnel department as such. They have changed the names; they have gone through totally different formats and it operates in effect, the governor's office. I would say in the past the tendency was more towards this so I would have to admit to you that if anything, the trend currently across the country is away from independent departments of personnel and more towards more direct control by the governor of the personnel process and I think that has been a response to the movement throughout the country for its collective bargaining. I cannot give you a state by state rundown. We could get that information for you if you would like it.

Mr. Redelsperger stated that he noted there was no fiscal note on here. Could you go through this a little more about how this will be funded. I notice it is addressed partly in Section 7. Down the road is this going to end up costing more.

Mr. Gagnier stated that in their opinion it won't make any difference whether it is a department or a division, the cost will remain the same. The reason there is no fiscal note is that personnel division is primarily funded through an assessment and it is in their budget being considered by the two money committees. They provide an assesment on all state agencies based upon the amount of salaries that agency pays. In our opinion it will not cost any more to operate a department than it would a division. If you were to assume that if you create a department you are going to have to add people then yes it will cost more, but we don't think that is necessary. So you are really just taking them out of here and putting them here and making what is now a chief, a director.

Mr. Redelsperger stated that it may not be necessary now but that it may be necessary in the future and then you are going to have a department on its own.

Mr. Gagnier stated that it would still have to go to the legislature for that authority.

Mr. Redelsperger stated that they would be back for an appropriation.

Mr. Gagnier stated that that might be something that they might certainly attempt to do. I wouldn't say that they wouldn't because I can't predict that.

Mr. May referred to page 5, line 18 and line 39 and 40. Mr. May asked who was the present chief of the personnel committee.

Mr. Gagnier stated Mr. Wittenberg.

Mr. May stated that what this proposes to do is set up a person in the position of director parallel to Mr. Wittenberg's position now.

Mr. Gagnier stated no. He stated that this was a little presumptuous on his part to assume this, but I would assume if this bill passed that the governor would just simply appoint Mr. Wittenberg as Director of the Department of personnel. It is the same position. The qualifications that you are referring to are the qualifications that the chief of the personnel division, Jim (Wittenberg) must have and it just goes through the appointment procedure. It is the same position. Now if the legislature in setting the unclassified salaries decided that as a director he deserved a higher salary, they could pay him more. That is up to the money committee.

Mr. May stated then that this simply takes Mr. Wittenberg's position and elevates it from a department now to a division.

Mr. Gagnier stated no, from a division to a department. Mr. Gagnier stated that it is currently a division of a small department and it would make it a department of its own.

Mr. DuBois asked what the rationale of the task force.

Mr. Gagnier stated that he would think that that would be a better answer to come from them and not from me. I really would not like to speak on their behalf.

Mr. Gagnier stated that Mr. Capone of the Governor's Office is here and maybe he could comment on it. I just really don't think I should be speaking for them.

Mr. Gagnier asked if he could add one final thing. If the study that was introduced yesterday in the Assembly and referred concurrently to Legislative Functions and Ways and Means passes this legislature,

We would certainly be willing to withdraw this bill. If you are going to have a major study of the personnel system I could see the reluctance to pass a major change like this just before a study but I am reluctant to recommend withdrawal of the bill at this time because we don't know whether the study is going to pass. It is going to have to go to four separate committees in the legislature because of the appropriation in it. I would just add that if the study does in fact pass and we are going to ask the chairmen of Ways and Means and Functions to process it quickly so we can find out, then we would ask you to withdraw this bill.

Mr. John Capone, Employee Relations Officer to Governor List, testified next. He stated that to his right is Mr. Jim Wittenberg who is currently head of the personnel operation for the State of Nevada. He stated that his comments would just be very brief because he would like Jim (Wittenberg) to make specific comments to some of the technical aspects of the bill, but to answer Mr. DuBois' question, partially in the task force recommendations in studying the Department of Administration which is really the parent organization of the Division of Personnel, it was determined that it might be appropriate to spin off some of the specific functions of that department into other more appropriate branches of government, existing branches of government. Since the general services function is a service organization and since the personnel division is a service provider to the state agencies, it was determined that it would be appropriate to place the service providing agency the division of personnel under the general services administration. The current head of that general services operation, Bruce Greenhall is a cabinet level officer and director of that department. I would just like to emphasize to the committee that the considerations given to placement of the state personnel function in many ways wind up being almost cosmetic considerations as much as anything. I really don't think that the name of an organization or its location in an organizational chart necessarily is going to guarantee the delivery of the top quality service that we all hope their state employees and their agencies will receive. I think the key to any good personnel operation is the degree of commitment of the head of the state government of the governor to the personnel function and all of its aspects and I am here to assure you today that Governor List for one places the personnel function as one of the highest priorities of his administration and the fact that state personnel lies under department of administration if it were to be left there or general services or as a separate department frankly won't change that in terms of the degree of commitment of the administration, so I hope that in reviewing the proposal under the bill you are considering today, you will keep that in mind and I think with that I will turn over to Jim (Wittenberg) some references to some specific comments that he had in the bill.

Mr. Wittenberg testified next. He stated that he thought that certainly the things that John (Capone) has covered are very important, without any questions, with reference to our position on this. I think that there are a couple of points that I would

1618

like to have. One I think anytime you increase another separate autonomous or create an autonomous agency you are increasing the span of control that the chief executive has which I think is counter-productive in terms of good management and good organization in government. I think that is one thing that would certainly occur. I think that the management task force recommendations addressed an issue that has been a concern of SNEA and perhaps other groups in terms of the relationship between the fiscal function and the personnel function and the fact that it might be too much control coming from the fiscal side of the department of administration in making this change that whether it is real or imagined is achieved or is separated. There is in fact unreasonable control. I think that is important. General Services Administration is an agency with a number of service control oriented kinds of agencies and I think that is a logical place to place it in making that separation. I think those are the major reasons and recommendations or the basis for the recommendations in terms of the task force which I think were sound recommendations. I think the cabinet level issue - the status issue - is one certainly that doesn't carry enough weight to restructure state government. That is an issue that has various importance to various individuals but we are not - I am personally and our agency - is not concerned with that. We are concerned in trying to deliver the best possible service we can to the state agencies who must rely on our personnel services to carry out their particular program responsibilities. I think that can be done equally as well in this kind - perhaps the control, not the control, but the coordination of a number of service and control oriented agencies under one director I think makes sense. I think there is better coordination which would result moving from the department of administration to general services administration. I am not sure I understood Bob's comment with reference to the trend. The trend, I believe throughout the country has been for the past ten years towards a centralized function, personnel being put in with the budget function with general service administration kinds of functions there are all sorts of variations throughout the country, but the amalgamation of personnel budget finance and some of the other services is certainly the trend and has been for the past ten years so I think we would be out of step with that trend in making another separate agency. I think on the issue of fiscal note, I would see in looking at this some fiscal impact in terms of the accounting responsibility. I have not assessed it in terms of how much it would be but I can see a great deal more accounting responsibility in terms of the funding mechanism on this than currently exists under the funding mechanism that we have now.

Mr. DuBois questioned the size of Mr. Wittenberg's department.

Mr. Wittenberg stated about 52 employees.

Mr. DuBois stated that he thought that this move would be counter-productive. Mr. DuBois asked for an explanation of that statement.

1619

Mr. Wittenberg stated that in terms of increasing another separate agency that answers directly to the chief executive to the governor I think there is a study performed, there have been a couple of studies, organizational studies with reference to the structure of state government during the past fifteen years in this state as well as other states and in most cases - in all cases that I am aware of - they tried to decrease the number of people answering directly to a chief executive. The more I think you have independent entities answering directly to the executive the less effective the chief executive can be.

Mr. DuBois asked if this would be the smallest department.

Mr. Wittenberg stated no. It was off the top of his head - it would be one of the smaller ones - I am not sure it would be the smallest.

Mr. Nicholas stated that since there are several departments that report to the governor which are much smaller than the 52 that Jim is talking about and second I would also like to point out that when you are dealing with reporting to the chief executive there are very few of the department heads who do report to him except under extraordinary circumstances, but in the main, the governor maintains a staff of approximately five to whom all of the department heads basically report and then the information is somewhat filtered depending on content to the governor so that he does not have to deal directly in most situations.

Mr. Craddock asked why it would be more expensive in the accounting process as a department rather than a division.

Mr. Wittenberg stated that he thought the current method of assessment is a particular fraction of a percent - .83. Every agency salary budget is assessed at that rate which is a somewhat simpler assessment process - a funding process than this would be.

This would be talking about costing out the operational and personnel expenses by agency - by division - within an agency which would in the accounting environment simply require more staff hours without any question. I can't say or represent or take another position because I am not sure and have not analyzed it that closely but just looking at it on the surface it is going to have some kind of impact. If that kind of funding were suggested now to the general services accounting, the people that do our accounting for us, I am sure they would be looking at doubling or tripling the amount of time that they now spend on that process of bringing in our revenue because of those variations. There would be shifts under this. The same personnel and the same operating resources would not be constant in any agency or any division over any large period of time. There would be shifts because of peaks and troughs and changes in activity or personnel service demands which would relate then to an accounting transaction or transactions. So I think it would have some impact on that, without any question. I did not mean to imply in my earlier testimony

agencies answering directly to the chief executive, I should have said the chief executive's office because I am well aware of how they operate but that would increase - would have the same effect with reference to the staff people in the governor's office and I certainly agree with the comments made by Mr. Nicholas.

Mr. May asked if Mr. Wittenberg had joined the unclassified ranks a couple of sessions ago.

Mr. Wittenberg said that was correct.

Mr. May asked if Mr. Wittenberg served at the pleasure of the governor.

Mr. Dini stated that he served at the pleasure of the Department of Administration.

Mr. Wittenberg stated that was correct.

Mr. May stated then that this language would make Mr. Wittenberg directly responsible to and serve at the pleasure of the governor.

Mr. DuBois asked if there was a bill in the works to put this under the general services?

Mr. Capone stated yes, Mr. Gagnier referenced that earlier in his testimony as well. It was introduced through this committee and I believe is being referred back to the committee.

Mr. DuBois questioned the \$150,000,000.

Mr. Wittenberg stated that Mr. Gagnier was referring to the salary portion of the state budget.

Mr. DuBois stated that in terms of fiscal responsibility this department would be one of the larger ones.

Mr. Wittenberg stated that it depends on how you look at the point that Mr. Gagnier made. We would not have direct responsibility for the salaries and that kind of fiscal impact. There is an indirect impact of a personnel function on all those salaries and in that sense it is true now and it would be if the change were made. He is talking in terms of the kinds of personnel practices procedures and that sort of thing that do affect the work force and so there is important indirect impact but not direct in the sense of having control over those funds.

Mr. Joe Crowley, President of the University of Nevada, Reno, testified next. Mr. Crowley stated that he was here at the invitation of the Chairman of their Board of Regents and I would like to read a letter from the chairman to this committee and then I would like to add a few words of my own.

1621

Mr. Crowley read the following letter to the committee:

"On Wednesday, April 22, AB 477 is being heard by the Committee on Government Affairs. It is my understanding that the purpose of this bill is to establish a department of personnel which would remove the existing personnel offices in the university system and state agencies and place them in the new department. The Board of Regents opposes the adoption of this proposed legislation because it would exclude the Board from direct involvement in the personnel affairs of its classified employees who comprise approximately one-half of the total work force. I am sorry that my schedule does not permit my attendance at this hearing and that Chansellor Robert Bursey will be away from the state during this time, however, I have asked Dr. Joseph Crowley, President of UNR to represent the Board in this matter."

Mr. Crowley stated that he thought that the position of the Board and the University System at UNR and business Center North which reports to me and which services all of the various divisions and programs of the University be active in the Northern part of the state and in some cases statewide. Our position with regard to this bill is based on a view that while there may be differential interpretations of rules from one situation to the next, it is also the case that there are very different situations obtaining around the state, certainly the University system is different from other state entities and within the University System there are considerable differences. It is a very complex entity and our feeling is that our personnel problems are best handled by those who are closest to those problems and those would be the people in our personnel division. I am not sure what the rationale for the bill is. My feeling based on a reading of the bill and listening to the testimony is that the justification appears to be at least in part the same as has been used for a wide variety of programs that have been initiated over the last twenty years. One finds particularly at the federal level, and that is that somehow in centralization and uniformity there is an answer to the problems resulting from the differences that do obtain from one locale to the next. I don't know that that rationale can be said to have been proved to be successful in terms of the programs that have been initiated so for that reason as well as for others the Board and the University System are opposed to this bill.

Mr. Craddock stated that he was interested in Mr. Crowley's remarks on the complexities of the problems involved in the University System. It would seem to me that by becoming a part of the new personnel system you might be able amend the systems to other branches of government which don't have the managerial experience or the background that the University System has.

Mr. Craddock stated that other things that bother him are that we have some indications of sectionalism creeping up in the state which

I detest. It would seem to me that we could get away from some of the sectionalism trends if we put together a personnel department. Mr. Craddock asked if Mr. Crowley would care to comment on that.

Mr. Crowley stated that he thought that the University would be more than happy to share whatever talent we have in the personnel area as in other areas with any other state agency or community agency or whatever agency was interested. There certainly is no barrier to that at the moment. We do have I think a reasonably good working relationship with the State Personnel Division with our local personnel offices and we would like to retain the flexibility that that provides and it does provide also for a certain amount of centralization which, of course, is necessary.

Mr. Craddock stated that in other words he would lend his assistance but he would not carry it on a full time on-going basis.

Mr. Crowley stated that he did not know that this legislation would necessarily produce that result.

Mr. Crowley stated that it was a very small department. We have a director and two or three other people in the department so it is not a large staff but to the extent that its expertise would be useful to other state agencies I am sure that that staff would be willing to share it. On the question of sectionalism I don't know that insofar as personnel affairs are concerned that that it particularly a problem in the university system and indeed it is my distinct impression that over the course of the last ten years that sectionalism in general has ceased to be much of a force within the University System. Certainly at the level of the administrations, the working staffs, the faculty senates there is a great deal of cooperation and sectionalism seldom, if ever, rears its head and I am unaware that it has any application in the personnel area.

Mr. Craddock referred to the internship program for teachers.

Mr. Crowley stated that if there were problems there I was not aware of them. There are certain tensions of course, but we have been able so far to work them out. We have, for example, in another area of continuing personnel programs in continuing education programs in both universities which are statewide in orientation and there are no rules or regulations that are prescribed for the operation of those divisions but we have informally worked out a kind of mason/dixon line if you will beyond which the folks at UNLV don't go coming north and beyond which the folks at UNR don't go coming south so when problems do arise and they do certainly from time to time we have attempted and I think by and large successfully attempted to work them out.

Mr. May asked if the University had its own personnel office.

Mr. Crowley stated that was correct.

1623

Mr. Gene Phelps, Assistant Director for administration with the department of transportation and with me is Larry Shirrard, our personnel officer who deals with some of the day to day personnel problems our employees have. I apologize for my rather informal appearance. I was called on without much notice to pinch-hit for Mr. Stone.

Our primary objection to the bill is Section 82 that transfers all personnel officers to the central office of State Personnel and we believe there are several problems with that. One is that we are convinced that this will rather than save any cost is going to increase it and the reason I say that is that there are a number of activities carried on by the personnel office in a large agency like ours, like the University, Employment Security, that simply can't be done centrally. So if these people are transferred to the Central Agency, then someone else has to assume those duties and in an agency as large as ours that is more than one some one else. So we think rather than save any money this bill is quite likely to increase costs to an agency such as ours.

Mr. Dini stated that he did not see where the difference was. They would still have the same function.

Mr. Phelps stated that they had a lot of functions that go on in an agency personnel office that are not pure personnel functions other than recruitment examining and salary administration. There is handling of employee grievances that can best be dealt with locally and when you've got thirteen or fourteen hundred employees there is a lot of this kind of thing that goes on. This simply can't be done and handled by a central agency. They are too remote from the problem. The University and ourself and a couple of other agencies run their own payroll and it is primarily done because of accounting requirements for federal aid and separate sources of funding. Personnel offices in agencies are involved to a significant extent in this payroll activity again that is not very well handled by a central personnel agency at a different location. There is just a whole array of these kinds of things. Civil rights complaints, EO complaints, creation of job descriptions, not the least of which is accountability. I think we would agree that one of the biggest complaints in state government is with regard to activities carried on by agencies - the lack of accountability and it is very difficult for you or others to hold the director of the Department of Transportation accountable for his actions when you take his control away or at least weaken his control of one of the major resources that he has to deal with so contrary to what Mr. Gagnier said in terms of a different interpretation of rules, state personnel has the ultimate authority on this determination and our people work very closely with them to be sure that we do get consistent interpretation of rules. On the other hand, there are problems that occur in an agency that are unique to that agency. In highway or in the Department of Transportation have for example any number of position descriptions or jobs that are unique to that agency and we firmly believe that those kinds of problems can best be handled

1624

by people who are accountable to that agency management and who are closer to the problem so we would be happy to answer any questions that we can.

Mr. Craddock asked if collective thinking from time to time wouldn't work well for all concerned. Mr. Craddock stated that the point that he was looking at was that the assistance lent to one another on an ongoing basis which can only be done by way of communications back and forth.

Mr. Phelps stated that he believed that they did that now. Again State Personnel as analysts could not start to do the whole personnel job locally. We only handle those things in personnel that is most convenient to be handled at the agency level. They call on us when our expertise is needed. We have a full time civil rights officer and we make him available to any agency. He works with other agencies all the time in putting on programs for them so I think we have a high level of cooperation between our agency and others, however, our people don't have a great deal of time to do that. They stay pretty busy. We have fewer people involved in our personnel function then we had in 1973 for example and our personnel costs per employee I think stacks up very favorably to any agency within the state or outside of it.

Mr. Craddock referred to possibly making job descriptions more objective than some of the ones I have read.

Mr. Phelps stated that they have two things - one is a job specification that specifies the education, experience and so on and so forth that are required for any given position. These are developed most often by state personnel if it is a new position in consultation with the agency that is going to utilize that position if a new position is required. In addition to that we and all other agencies have a job description for every individual who works for that agency who may have a general classification for example in our case of maintainer. Each maintainer will have a job description that he and his supervisor both sign off on where they agree exactly what his job is and how he will be judged on that job. It describes the specific job that that individual will do and it describes specifically what his performance will be judged on, how he can tell when he has accomplished satisfactory performance so we've got two - one of them is a specific job description and one is a specification that describes that general position and all others like it in the state. We are involved only in a limited way in developing the job specification.

Mr. Craddock asked if the function Mr. Phelps was performing right now under his job specification.

Mr. Phelps stated yes it is.

Mr. Craddock asked if he was the only one that has that classification.

Mr. Phelps stated that he was the only one that is classified as an

assistant director for administration. That is covered specifically in mine but most people who occupy positions at my level wherever in state government their job description under the general description of it would provide for that.

Mr. DuBois asked if the case of a grievance, if you had one in Las Vegas would there be a personnel man down there that would handle that in the Las Vegas Southern Nevada area.

Mr. Phelps stated that it would come through the district office but no, we don't have a personnel person stationed in Las Vegas, it would be handled by Mr. Sherrard's operation here, depending again on the kind of activity that is involved.

Mr. DuBois asked if you had a hearing on that individual if he would have to come up to Carson City.

Mr. Phelps stated no. We would go down there.

Mr. DuBois stated that he guessed the same thing would apply if there was a centralized department of personnel.

Mr. Phelps stated yes. Mr. Phelps stated that State Personnel has an office in Las Vegas that they work very closely with.

Testimony on AB 477 was concluded.

The committee took a five minute recess.

Mr. Dini indicated the next bill the committee would take testimony on would be AB 487.

Mr. Bob Gagnier, Executive Director of the Nevada State Employees Association testified first. He stated that AB 487 is a very simple bill and it does a very simple thing and while it says up in the fiscal note area that it has no fiscal impact, we think it does. It has a positive impact of lowering costs. The bill's intent is to remove one level of the legal disciplinary procedure from our appeal process.

To explain what the bill does, I have to explain what the procedure is now. If a classified employee is suspended, demoted or dismissed or is involuntarily transferred they have the right to appeal. If they appeal it goes to a hearing officer. At the present time the state has two hearing officers. They are both lawyers and one is in the south and one is in the north. The hearing officer is required to hold a hearing within a set period of time. He holds the hearing, they take evidence, it is a full blown hearing, the employee is represented, the agency is represented, the hearing officer thereafter renders the decision. Then if either party dislikes the decision, either party may appeal to the personnel advisory commission, a five member body appointed by the Governor. The Commission listens to the remarks as to whether they should

rehear the case or not rehear the case. If they do rehear the case it is hearing de novo and that is found on page 2, line 33 through 36. In other words, they start all over again and you have a brand new hearing. Both sides have to do the whole thing over again. If the commission refuses to hear the case either party may appeal to court. If they hear the case and either party is still dissatisfied then they appeal to court. However, when it gets to court, it goes on the record. So what we are really trying to do is just eliminate the second shot that people have at a full evidentiary hearing. We see no reason to have two full blown hearings. Both sides should shoot their best shot at the hearing officer level. If they feel the hearing officer made an error, then they can ask for judicial review based upon the written record of that proceeding. We would eliminate this entire process. We think that would save money. It would speed up the process because you would skip that one level and if you wanted to appeal you would go right to court.

What the current procedure does is allow, and in our opinion the other side, to have a second shot. They don't have to do their best job at the hearing officer level because they know if they don't they can always try bringing out new evidence in a second hearing. And we have had a case where the hearing officer decided one way, it was appealed to the commission, the commission heard or agreed to hear the case, heard it and overruled the hearing officer because additional evidence was presented that the agency failed to present at the first hearing. So what we are trying to do is simplify the procedure, speed it up and have only one hearing.

Mr. Craddock asked if there were some court cases somewhere which indicate that an employee has a property interest in other words a constitutional guarantee.

Mr. Gagnier stated not quite a guarantee, but he does have a property right.

Mr. Craddock asked if the one hearing would fulfill the due process procedures.

Mr. Gagnier stated yes we have quite a due process procedure in state government. First of all we have a pre-determination hearing if it involves a dismissal. That is not in the law. That is in the rules and it came about as a result of the Supreme Court Case. They have to go through that process which is really relatively simple and then go through the dismissal process and on into the first hearing. That one hearing is sufficient. Now I might say that if we had our choice we would be willing to live with a hearing officer decision and do away with judicial review, however we have been told we cannot do that constitutionally, everyone has the right to judicial review. We would prefer more of a type of case you have in private industry where you have an arbitrator, you go to arbitration, you present your case and both sides live with the result. But we cannot do that we have been told

we have to provide judicial review.

Mr. Dini referred to page 3, the deletions on line 3 through 5. Mr. Dini asked why that was deleted.

Mr. Gagnier stated that he would have to say that that was the bill drafter that did that. I would refer back to the preceding page, Section 4 - line 41. It says the hearing officer may upon application of any party issue subpoenas, etc. - Mr. Gagnier stated that this referred to oaths.

Mr. Gagnier stated that he thought that it was covered somewhere else.

Mr. Dini asked if there was any additional testimony on AB 487.

Mr. Dan Hussey testified next. He stated that he is the chairman of the PAC and has been a member of the PAC for about eight years. It is a five member commission. I am the only attorney that is a member of the commission. We all have a varied background. I really am not going to read from all of the things I brought with me - I just have a few notes on the top.

Essentially the commission functions as a civil service board. You have a civil service set up and the board sets policy, the rules and this type of thing. Up until a few years ago, we didn't have any hearings officers. Then we started getting a lot of appeals and the appeals just basically overwhelmed the board or the commission and like many other governmental boards, county commissions, whatever we decided that and the legislature went along with it that we would set up hearings officers to hear some of these - the more routine things. We set policy. The hearings officers don't set policy and should not be setting policy. The hearings officers are basically attorneys and we have had multiple hearings officers. We have had three hearings officers as such. At the present time we have two. One was elected to office in Las Vegas. We can get different decisions from different hearings officers under the same facts. We have a hearings officer that handles most of the cases from Las Vegas and one that handles most of the cases from Reno or from Washoe. If you get different decisions, then you have no where to go but to court. We basically resolve it. Generally you find a civil service board almost anywhere you find civil service. I know in the Louisiana constitution for example it is written into their state constitution. They have a hearings officers that goes all over the state. All the hearings officer does is record testimony, take testimony, write out proposed decisions, submit it to the board and the board or the commission makes the rule. The decision goes out under the signature of the commission. Basically our hearings officers are our representatives out there. They are trying to make the determination based upon what they think we want and what our policy decisions are.

We do rehear cases de novo. There is no question about that. A de nove means that we take all of the testimony, everyone comes in

just like it was a new trial but it is very efficient because we are not required to. We don't rehear every case that goes to a hearings officer. We can pick and choose. Basically we pick and choose based upon the representation or the case that is brought before us. If the case has great significance; if there appears to have been something wrong down below, the hearings officer will hear it. I have the statistics for 1979 and 1980. In 1979 the hearings officers heard 16 appeals. Five of these appeals went to our commission. We only heard one. In 1980 there were 28 appeals to the hearings officers and five of those were appealed to our commission. We only heard one of them. So in the last two years we have heard two. Not much of a financial fiscal impact there. They were significant cases that we heard where they had been decided wrongly or where there was a challenge between different hearings officers interpreting rules differently. We want them interpreted uniformly. Basically the hearings officers are accountable to us and we want to keep that accountability. Every time a hearings officers is listening to testimony and making a decision he knows that that decision may very well come up before our commission again and we will hear the same witnesses he did and we will draw the same conclusions hopefully if he has done his job well. This gives us input or feedback. We know how he is doing.

We have had in the last eight years that I have been on the commission we have had three different instances where we have had problems with the hearings officers where the hearings were not heard for some period of time. There was a delay in the initial hearing or there was a delay in getting the decisions out. With our supervisory role, we are able to say look, call the hearings officers in and ask what they are doing? Why aren't these out. At the present time, and we did this a few months ago, ninety percent of our cases should have hearings officers decisions within thirty days of the time they are filed. This is something that the commission has imposed. We want this. When you are talking about great delays it is very difficult both on the employee and on the agency. There are a few things that are more important to an employee than his job especially when you are talking about a career situation like the state. We want to encourage career people and we want to encourage fairness. When a person is off work for four or five years for example waiting for a court to come back with a decision, the employee in many cases, or at least a significant number of the cases is devastated. He is in limbo. Is he going back to work for the Highway Department for example or is he going to be out on his ear with just big legal expenses. The same thing goes the other way. The governmental agency has the responsibility to deliver services and they are in limbo. How do they go out and hire someone else when the fellow that they have just terminated is sitting in limbo. They don't know if that fellow is coming back or not. When you talk about courts we have enough problems in the courts.

I was a law clerk for the Eighth Judicial District Court and the

courts are overloaded. What we have to do is cut some of the workload down for the courts. The standard of review, court review, judicial review is different from the standard of review by the commission. There is the substantial evidence rule where the court is bound by the findings of fact unless those findings are unsupported in the record and clearly erroneous. The court does not determine findings of fact. The commission does. The courts basically do not make policy. The reasonableness of an agency action is generally held to be beyond the proper scope of inquiry for a reviewing court. But the commission does. The commission can make policy and can make uniform policy. There is a lot of calendar pressure on courts and they tend toward a prefatory resolution of it. You get into a technicality, well this paper wasn't filed here or there or something like that, we are going to throw the whole thing out. It really does not address the problems that both the employer and the employee have.

Also when you get into court it is more of a tendency to be between the two parties, one single employee that is bringing the case for example and the agency on the other side. Well very often it is more than just that one employee that is involved. There are a lot of employees that are involved, whether the other employees are stuck with a bad supervisor as a result of what happens or if they are stuck with a bad employee that they have to cover. We develop a certain amount of expertise and I think that is probably the justification - the primary justification - for having administrative commissions. Because you work with it and you learn a few things as you go along. Courts will have this case and one hundred other cases from murder trials on down. Now what is most important to the court. They have got to crank cases out, they have got to move them, and they really don't want to spend a lot of time going back and forth. The cases that I have observed in my eight years have been primarily the ones that we had the most problems with were the most fouled up or whatever you want or maybe on a policy basis were not the way they should be, came from the courts, and it was obvious that the courts did not have a feeling for what was taking place. The courts really were not playing a policy role. They were just cranking the case out and it is really easy to write down, reinstate, this is thrown out, or vice versa, termination upheld - out. We have to live with it. Many cases we get back we will formulate new rules. We will change rules that we have. We get feedback from the system and how it is functioning. I think there is a positive -

Mr. Dini asked how many appeals were reversed in the hearings office.

Mr. Hussey stated that he had no idea. I honestly - because of the number of cases that come up and then the number that go through the different stages, it is not really a representative sample. So there is nothing meaningful - I don't like to be thinking well I ruled against the employee four times last year and I am going to have to rule for him this year and balance it out or vice versa it is just not rewarding that way, so I don't know.

Mr. Dini stated that that was not the question. He asked how many times they had reversed a decision of a hearings officers.

Mr. Hussey stated that they had reversed the decision of the hearings officer many times. I could not give you a number. I could not tell you how many hearings I have been involved in over the last eight years.

Mr. Mello asked if he would know if he had ruled more favorable towards the employer than the employee.

Mr. Hussey stated that he could not tell the committee that either. I don't know. We take each individual case based on the facts. There are five of us.

Mr. Craddock stated that he was confused. He stated that Mr. Hussey had said that they had sixteen hearings the year before last and last year you had twenty-eight.

Mr. Hussey stated that the hearings officer had these hearings, not the PAC.

Mr. Craddock stated then that Mr. Hussey stated that they had reviewed five in both instances and you held hearings on two.

Mr. Hussey stated that was correct.

Mr. Craddock stated that that was not a pretty big statistic to lose track of.

Mr. Hussey stated that they used to have a lot more that came to the commission, three or four a year, something like that that we actually heard.

Mr. Craddock questioned the other ten cases involved.

Mr. Hussey stated that they did not hear the ten cases, what we did is we reviewed the record, either side presented the reasons why they thought we should review it.

Mr. Craddock asked if there was any appeal taken to court in any one of the ten cases?

Mr. Hussey stated yes.

Mr. Craddock asked how many.

Mr. Hussey stated seven.

Mr. Craddock asked in what instances they were successful.

Mr. Hussey stated that he honestly could not tell the committee. He stated he would say that it has been his experience that once

the commission has heard it it is unusual for a court at least by the time it gets to the Supreme Court to reverse it although we have had some what I would consider strange decisions out of district courts that have been reversed.

Mr. Craddock asked if the hearings in the last two years were concluded.

Mr. Hussey stated that one of them was concluded he believed; he stated that he was almost positive it was concluded with that hearing and the other one was in court had been referred back to us because of a district court decision and that is why we had to hear it. I don't think we should have heard it. We upheld the hearings officer's decision on that and I don't know if it is in court or not. I wouldn't be surprised as they have been on litigation in that for five years or something. It is a very old case. Testimony was concluded on this bill.

Mr. Dini stated that he had a bill to introduce which was very important. Mr. Dini stated that he would like a committee introduction on BDR 23-1610*. Mr. Mello moved for committee introduction of BDR 23-1610 which was seconded by Mr. Schofield. The motion carried unanimously. Mr. May was not present at the time of the vote.

Mr. Dini indicated that the committee had heard 484 this morning and he further stated that there were some corrections on the amendments. Mr. Dini indicated that he would entertain a motion to amend and do pass AB 484. Mr. Craddock moved for an amend and do pass which was seconded by Mr. DuBois. The motion carried unanimously. A copy of the amendment to AB 484 is attached to the minutes of this meeting as EXHIBIT B.

Mr. Dini indicated that he would hold AB 477 in case the resolution passes.

Mr. Dini stated that it seemed to him that if he was a working man he would like to keep the appeals to the PAC.

Mr. Dini stated that he felt that it should be left the way it is.

Mr. Mello asked if this was the guy (Mr. Hussey) they had to go to.

Mr. Dini stated apparently.

Mr. Mello stated that he could not even remember what happens to the cases.

Mr. Nicholas asked what the reason was basically that the committee was looking at this issue.

Mr. DuBois moved for Indefinite Postponement of AB 487, which was seconded by Mr. Redelsperger.

Mr. Nicholas stated that the one area of disagreement he had with his two colleagues is having gone through this kind of a review situation in other types of positions within state government, I find the review of this particular commission would simply be somewhat extreme, somewhat unnecessary in my individual opinion. That would be why I would probably hope for taking some action on this bill right away.

Mr. Dini indicated that he had a motion for Indefinite Postponement and asked the committee members to signify their approval.

Mr. Mello asked for a roll call vote on AB 487.

The secretary called the roll. A copy of the vote on AB 487 is attached to the minutes of this meeting.

The vote on AB 487 was 2 for indefinite postponement, 8 against indefinite postponement. Mr. May was not present at the time of the meeting. The motion failed.

Mr. Dini stated that the next bill to be discussed by the committee would be AB 417.

Mr. Vernon Bennett, Executive Officer of the Public Employees Retirement System. The committee has requested that we prepare some amendments that would resolve the concerns of the committee and some of the concerns expressed by the different groups. We have discussed these with the various groups that were involved and with members of the committee and to the best of our knowledge this will resolve the concerns that were expressed.

Mr. Bennett distributed a handout with regard to the amendments to the committee which is attached to the Minutes of this meeting as EXHIBIT C.

Mr. Bennett stated that the first amendment was a technical cleanup of the title which I understand from David in the Legislative Counsel's Office which they may not do because it may not be necessary. The second on page 1, delete lines 1 through 22 and on page 2 delete lines 1 through 8 in their entirety and then on page 3 delete lines 13 and 25 in their entirety. This would eliminate the new increases in the employee and employer contribution rates for state employees based on the assumption that state employees will be removed from application of this benefit.

Amendment #4 on page 3, between lines 41 and 42. Insert the following: (c) employees of the state of Nevada. This is a group of people or things that are not affected by this benefit so amendment number 4 will remove state employees who are police and firemen from application of the bill and the subsequent benefit and incidentally that will restore the position they were in as of the 1979 legislation.

Mr. Bennett stated under number 5 add a new section: Regardless of the provisions of NRS 286.421, the entire cost for the new benefit provided by this act must be paid by the employees by salary adjustment. This reflects the proposal that the employees proposed to you last time that it was their intent that the employer not share in the cost. 286.421 is the section that applies to the employer pay and that section does say that the employee pays half and the employer pays half so you have to exempt that section and have a specific provision. We are sure Mr. Daykin's people will want to word this in a different manner but it accomplishes the intent.

Under number 6, add a new section as follows: State service shall not be credited for this benefit. This is because the state people want to be exempted from it. They won't be paying the extra contributions so they will not receive the benefit.

Under number 7, service earned after July 1, 1981 in positions not eligible for membership except for military service credit shall not be credited for this benefit. Now in addition to state employment you can have a person who works 20 years as a fireman and then for five years goes to work as a city manager or as a school teacher, any employment like that would not be counted in the new benefit because the person would not be paying the additional 1% contribution. He wouldn't be paying for it so he would not receive it.

Number 8, a policeman or fireman who has service not creditable under this benefit shall have the option upon retirement to either select a regular retirement option which regular members can do or to receive this benefit in full with the spouse's benefit being reduced proportionate to the uncovered service. This was worked out by our actuary and what he has proposed we think is a workable arrangement. The new benefit gives you 100% of retirement to the retired employee and 50% to the spouse after the retired employee's death. He is suggesting that you prorate the 50% benefit to the spouse for the people who did not pay for the full benefit, so as an example if you have 20 years total service, 15 years were covered as police and fireman and five years was not covered, such as state service, that person would have contributed only 75% of his total service toward this benefit and he would then give the spouse 75% of the 50% or 37-1/2% of the retired employees benefit. This way you don't penalize the person who transfers in and out and it eliminates the administrative problems that PERS had with what do you do with the guy who for 20 years was a police-fireman and then for ten years went with the State, or for two years was a state policeman and then for ten years went as a county sheriff. This will eliminate that concern. We will make the proration on the spouse's benefit after the death of the retired employee. Then we had a further request and a further concern - what if the person who did have some state service would like to give his spouse the full benefit and our suggestion was that a police or fireman who has uncovered service shall have the

option upon retirement to purchase the additional spouse's benefit as provided in this Act by paying the full cost as determined by the system's actuary on an individual computation. Now the person gets the retirement, he has 20 years service, but 5 is not covered. His wife will get a lesser spouse benefit than the person who had the full 20 years, but he says I don't want that. I would like my wife to get the full benefit. We will have the actuary work him a computation of cost, and he will have the option at retirement to pay that additional amount and get the full cost, but it will be done on an individual basis and on the option. If he does not want to pay it he does not have to. It is there for those that want it but it does not incur any problem with those that don't want it.

Under number 9, public employers who are required to adjust salaries to comply with the provisions of this Act, shall be held harmless from violation of any employee contracts currently in existence. This removes the employer concern and I remember that Jack had a concern with it. You have an existing employee contract that says you will pay this guy so much and the law passes July 1 and they have to take 1% out of that and forward it to the retirement system. In effect this is a hold harmless clause for the employer. The employer cannot be held responsible. He has to comply with the Act.

Under number 10, all provisions of this act, other than section 5 shall become effective July 1, 1981. Section 5 was Frank Daykin's clean up on the 1979 legislation in bringing it forward and he had some effective dates in there that he wanted to go into effect upon passage, but this benefit, the new contribution rates which specifically go into effect July 1, 1981.

Mr. Bennett stated that to the best of his knowledge in meeting with the groups that are involved, this seems to resolve the concerns of all the groups that were concerned.

Mr. Dini asked if this was incorporated in amendment number 572 or do we have to have another amendment drafted.

Mr. Bennett stated that as he understood it Don had requested the amendment and he had not seen it but it is my understanding and I went over these with David and he had no problem with them other than he wanted to make a couple of technical changes and say it his way, put it where he wanted to put it and I have no control -

Mr. Mello stated that he had given it to David but that does not mean they are right.

Mr. Bennett stated that he did not seem to have any concerns with the intent of the amendments.

Mr. Ross Culbertson stated that they concurred.

1635

Mr. Bennett asked if he could check this out today and come back tomorrow morning.

Mr. Dini stated that tomorrow morning we have the retrofiting bill. It is essential that everyone be here on time.

Mr. Dini stated that the following bills would be handled by the committee members on the floor:

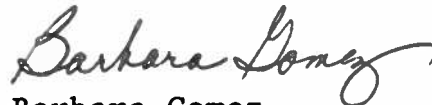
AB 268 - Mr. Nicholas
AB 38 - Mr. Craddock
AB 410 - Mr. Redelsperger
AB 145 - Mr. Dini
AB 446 - Mr. Jeffrey will back up Mr. Rusk.
AB 468 - Mr. Schofield.

Mr. Dini announced that next Tuesday evening we would have a joint night meeting with the Senate Government Affairs Committee. We will hear the bargaining bills.

Mr. Jeffrey addressed the Economic Development committee members and passed out a handout with regard to MX. He asked that they look it over and that they would take action on the floor.

There being no further business to come before the meeting, the meeting adjourned at 10:10 A.M.

Respectfully submitted,



Barbara Gomez
Assembly Attache

ASSEMBLY GOVERNMENT AFFAIRS COMMITTEE

LEGISLATION ACTION

DATE 4/22/81
SUBJECT AB 487

MOTION

Do Pass _____ Amend _____ Indefinitely Postpone Reconsider _____

Moved By _____ Seconded By _____

AMENDMENT

Moved By _____ Seconded By _____

AMENDMENT

Moved By _____ Seconded By _____

VOTE:	MOTION		AMEND		AMEND	
	Yes	No	Yes	No	Yes	No
MR. CRADDOCK	_____	<input checked="" type="checkbox"/>	_____	_____	_____	_____
MR. DuBOIS	<input checked="" type="checkbox"/>	_____	_____	_____	_____	_____
MR. JEFFREY	_____	<input checked="" type="checkbox"/>	_____	_____	_____	_____
MR. MAY	<i>not present</i>	_____	_____	_____	_____	_____
MR. MELLO	_____	<input checked="" type="checkbox"/>	_____	_____	_____	_____
MR. NICHOLAS	_____	<input checked="" type="checkbox"/>	_____	_____	_____	_____
MR. POLISH	_____	<input checked="" type="checkbox"/>	_____	_____	_____	_____
MR. PRENGAMAN	_____	<input checked="" type="checkbox"/>	_____	_____	_____	_____
MR. REDELSPERGER	<input checked="" type="checkbox"/>	_____	_____	_____	_____	_____
MR. SCHOFIELD	_____	<input checked="" type="checkbox"/>	_____	_____	_____	_____
MR. DINI	_____	<input checked="" type="checkbox"/>	_____	_____	_____	_____
TALLY	2	8				

ORIGINAL MOTION: Passed _____ Defeat _____ Withdrawn _____

AMENDED & PASSED _____ AMENDED & DEFEATED _____

AMENDED & PASSED _____ AMENDED & DEFEATED _____

ATTACHED TO MINUTES DATED _____

20.7
AB 484 is sponsored by the City of Las Vegas with the intention of amending current statute affecting the procedure for reconveyance of dedicated land.

An example of this problem with reconveyance recently occurred when a half acre of land was donated to the City of Las Vegas and dedicated for a public park. This parcel of land was deemed to small for a public park project which would adequately serve the rapidly expanding area near Rancho Road and Cheyenne Avenue in Las Vegas.

The Original donor of the land, Elsner Estates, did not wish to have the parcel back so the City has been maintaining the property for the last 18 months. During this period of time, an abutting property owner contacted the City wishing to purchase the property. Current statute does not specify procedures for reconveyance in this case. In addition, statute requires cities to petition electors and receive signatures of at least 51% of the number of those electors casting votes for the Congressional Representative at the last preceding general election in order to reconvey donated property.

In this case, it is estimated that sale of the 1/2 acre could net approximately \$20,000 but cost to print, advertise and solicit the petition would exceed sales proceeds by \$6,000.

AB484 proposes to bring NRS 268.050 in line with existing County statute, (NRS 244.290) which allows for the reconveyance of donated and dedicated land by resolution of the governing board if they determine ownership to be unnecessarily burdensome or that such reconveyance will be advantageous to the citizens of the County.

In addition, the City is proposing to go further than the existing statute by recommending the use of current planning commission procedures for public hearing and posting of any reconveyance proposals. (See section 1, para., 2, line 18).

I would suggest one amendment to AB484, being the inclusion of like language to section 4 of NRS 244.290 specifying procedures for reconveyance when the donor of property refuses to accept return of the donated property or is unable to accept return. (See handout.)

By consolidating City and County reconveyance procedures, those cases where the donated property is burdensome or costly to maintain can be virtually eliminated.

In addition, these proposed changes would allow a city to simplify trades or exchanges for other properties more advantageous to the needs of the citizens; an example being, finding a parcel more suitable for public park needs than that property donated.

The last section of the bill repeals NRS 268.060 since vacation and abandonment procedures are covered in NRS 278.48.

24 P

AMENDMENT TO AB484

4. In one or more of the following circumstances, the governing board may sell to the highest bidder at a public sale land which has been donated and dedicated for public purposes as described in subsection 1 or may exchange such land for other land which is appraised at an equal value:

(a) If the person, association or corporation which donated and dedicated the land to the city refuses, in writing, to accept a reconveyance of the land;

or

(b) If the person who donated and dedicated the land to the city is deceased.

4 C

VERNON BENNETT
EXECUTIVE OFFICER

STATE OF NEVADA

WILL KEATING
ASSISTANT EXECUTIVE OFFICER



RETIREMENT BOARD
 DARREL R. DAINES
 CHAIRMAN
 SAM A. PALAZZOLO
 VICE CHAIRMAN

MEMBERS
 WILLIS A. DEISS
 PEGGY GLOVER
 BOYD D. MANNING
 MARGIE MEYERS
 TOM WIESNER

PUBLIC EMPLOYEES RETIREMENT SYSTEM

693 WEST NYE LANE
CARSON CITY, NEVADA 89701
TELEPHONE (702) 885-4200
April 14, 1981

The Honorable Joseph E. Dini, Jr.
Chairman, Government Affairs Committee
Nevada State Legislature
Carson City, Nevada 89710

Re: AB 417

Dear Assemblyman Dini:

During the hearing on April 8, 1981 on AB 417, you requested that I discuss several matters with my Actuary and draft amendments to the bill to resolve administrative problems if State employees were exempted, to spell out that the employee would pay the full cost of the benefit, and to provide that the public employer would not be liable for violation of existing employment contracts by making deductions in accordance with AB 417.

We have discussed this matter with our Actuary, Dr. John Mackin of the Martin E. Segal Company. He has assisted us in preparing suggested amendments as follows:

1. In the title under fiscal note, change the affect on local government from "yes" to "no" and affect on the State or on industrial insurance from "yes" to "no".

COMMENT: These adjustments are necessary to reflect the amendments that will determine that all costs will be paid by the employees and that State employees shall be exempted.

2. On page 1, delete lines 1 through 22 and on page 2, delete lines 1 through 8 in their entirety.
3. On page 3, delete lines 13 through 25 in their entirety.

COMMENT: This will eliminate sections 1 and 3 which provide the increase in employee and employer contribution rates for State employees.

4. On page 3, between lines 41 and 42, insert the following: (c)
Employees of the State of Nevada.

Assemblyman Joseph E. Dini, Jr.
April 14, 1981
Page Two

COMMENT: This will restore the exemption to State employees that was provided in the 1979 legislation.

5. Add a new section as follows: Regardless of the provisions of NRS 286.421, the entire cost for the new benefit provided by this Act must be paid by the employees by salary adjustment.

COMMENT: This will establish that the employees will pay the full cost for the benefit and remove fiscal impact to the State and political subdivisions.

6. Add a new section as follows: State service shall not be credited for this benefit.
7. Add a new section as follows: Service earned after July 1, 1981 in positions not eligible for membership, except for military service credit, shall not be credited for this benefit.

COMMENT: Amendments 6 and 7 are necessary to spell out that this benefit will not apply to areas which will not make the additional contributions on or after July 1, 1981. Military service will be credited based upon the proposed legislation in AB 168 that military service credit will be counted toward early retirement eligibility.

8. Add a new section as follows: A policeman or fireman member who has service not creditable under this benefit shall have the option upon retirement to either select a regular retirement option or to receive this benefit in full with the spouse's benefit being reduced proportionate to the uncovered service.

COMMENT: This is the adjustment program recommended by the Actuary. For example, if a policeman or fireman had 15 years' service in covered positions and 5 years' service in uncovered positions at time of retirement, the retired person would receive 100% of eligible benefit. However, the surviving spouse would not receive 50% of the benefit as provided, but a proportionately reduced benefit to eliminate the uncovered service. In this example, 75% of the 20 years' service is in a covered position so that the surviving spouse would receive 75% of the 50% spouse's benefit, or 37.5%. Using the same example in dollars, if a person's monthly benefit was \$1,000 this bill would provide a benefit to the surviving spouse equivalent to \$500 per month. However, if only 75% of the 20 years' service was in a covered position, the surviving spouse would receive 75% of the \$500 or a monthly benefit of \$375.

Assemblyman Joseph E. Dini, Jr.
April 14, 1981
Page Three

8. Add a new section as follows: A policeman or fireman member who has uncovered service shall have the option upon retirement to purchase the additional spouse's benefit as provided in this Act by paying the full cost as determined by the System's Actuary on an individual computation.

COMMENT: This will allow people who serve in uncovered positions such as State employment, school district employment, etc., the opportunity to purchase the additional benefit for the spouse at no cost to the System. In our example in amendment no. 7 above, this person could determine the cost to purchase the difference from 37.5% to 50% coverage and increase the monthly benefit of the surviving spouse from \$375 to \$500 as provided to members who had total service coverage.

9. Add a new section as follows: Public employers who are required to adjust salaries to comply with the provisions of this Act shall be held harmless from violation of any employee contracts currently in existence.

COMMENT: This will express the Legislature's intent that a public employer shall not be liable for having to technically adjust salary in contradiction to existing employee contracts.

10. Add a new section as follows: All provisions of this Act, other than Section 5, shall become effective July 1, 1981.

COMMENT: This will clearly spell out the intent that the effective date for this benefit and change in contributions shall be July 1, 1981.

We feel that the above amendments satisfactorily resolve the concerns expressed by members of the Committee. We have attempted to merely provide content. We are sure that the Legislative Counsel will have more appropriate specific wording and format. The sections should be renumbered.

We have discussed these amendments with Chairman Julius Conigliaro and Barton Jacka of the Police and Firemen's Retirement Fund Advisory Committee and Bob Gagnier of SNEA who have all indicated concurrence in the intent of the amendments.

Assemblyman Joseph E. Dini, Jr.
April 14, 1981
Page Four

We will be pleased to answer any questions which you or any members of the Committee may have regarding the above amendments.

Sincerely,

Vernon Bennett

Vernon Bennett
Executive Officer

VB:dd

CC: Assembly Government Affairs
Retirement Board
Police and Firemen's Retirement Fund Advisory Committee
Mr. Robert Gagnier, State of Nevada Employees Association
Mr. William Bunker, Federated Fire Fighters
Mr. Bob Kerns, Reno Firefighters Association

Bennett